



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/613,183

07/03/2003

Richard M. Latino

970214.00002

4943

28534

7590

10/03/2005

BRIAN M. DINGMAN  
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP  
100 FRONT STREET  
WORCESTER, MA 01608

EXAMINER

CHEN, JOSE V

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/613,183	Applicant(s) LATINO, RICHARD M.	
	Examiner José V. Chen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.  
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-19 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 10/14/03  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 12-20 have been renumbered 11-19, respectively. ***Claim***

### ***Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if applicant intended to claim a combination including a computer monitor since a computer monitor support is claimed with specific interconnection with a computer monitor such monitor not being positively claimed making the metes and bounds of the claims unclear and confusing to a potential infringer. Clarification and correction are required. The expressions "the stationary support" (claim 2), "the constant force coil spring" (claim 12) have no definite antecedent basis in the claims. Claim(s) 19 fail(s) to recite sufficient structural elements and interconnection of the elements to positively position and define the deceleration device so that an integral structure able to function as claimed is recited.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 7, 8, 9, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyce. The patent to Boyce teaches structure as claimed including computer monitor lifting device, comprising an equipment support sized and dimensioned for receiving a computer monitor (14), a lifting mechanism (figs. 2, 3) coupled to the equipment support and adapted to selectively move the equipment support and the computer monitor between a retracted position and an extended position, the lifting mechanism is coupled beneath a worksurface in the retracted position and raises the computer onto the worksurface in the extended position, latch (118).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, 3, 5, 6, 10, 11, 12, 13, 16-17, 19, so far as definite are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyce in view of Rizzi et al ('752). The patent to Boyce teaches structure substantially as claimed as discussed above including a lifting mechanism, the only difference being that the lifting mechanism is not a spring device. However, the patent to Rizzi et al teaches the use of providing a spring device and slide (figs. 1, 2) as a lifting mechanism to vertically adjust structure to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Boyce to include a spring device as the mechanical assist, as taught by Rizzi et al since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyce in view of Rizzi et al as applied to the claims above, and further in view of Leday. The patent to Boyce in view of Rizzi et al teaches structure substantially as claimed as discussed above including a slide, the only difference being that the slide does not include a ball bearing slide. However, the patent to Leday (fig. 4) teaches the use of

providing a linear ball bearing slide as a guide and slide structure to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Boyce in view of Rizzi et al to include a ball bearing slide, as taught by Leday since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Asinovsky, Kuhlman et al, Michael, Park, Watson, Chang, Kolavo, Wolters Liu, Rosen, Manner teach structure similar to applicant's.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f, m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/613,183  
Art Unit: 3637

Page 6



Jose V. Chen  
Primary Examiner  
Art Unit 3637

Chen/jvc  
09-27-05